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October 20, 2017

Via FOIA Online

Regional Freedom of Information Officer  
U.S. EPA Region 10  
Office of Ecosystems, Tribal and Public Affairs  
1200 Sixth Avenue, ETPA-124  
Seattle, WA 98101

Re: Freedom of Information Act request regarding application of Swinomish Indian Tribal Community for treatment in a manner similar to a state under the Clean Air Act

Dear FOIA Officer:

This request is submitted to Region 10 of the Environmental Protection Agency pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and the regulations at 40 C.F.R. Part 2. This is a commercial use request as that term is defined at 40 C.F.R. § 2.107 (b)(1). We are willing to pay search, review, photocopying, and other fees related to responding to this request up to \$150.00. We request that you contact us first before incurring any charges in excess of that amount.

#### Defined Terms

Wherever used in this FOIA request, the term—

- "CAA" means the Clean Air Act, 42 U.S.C. §§7401 et. seq.;
- "EPA" means the Environmental Protection Agency;
- "SITC" means the Swinomish Indian Tribal Community, a federally-recognized Indian tribe;
- "Region 10" means Region 10 of the EPA; and
- "TAS" means treatment in a manner similar to a state pursuant to § 301(d) of the CAA, 42 U.S.C. 7601(d).

In this request, the term "document" is used in its broadest sense and includes writings, notes, correspondence, emails, maps, charts, images, data, information, or any other materials whether stored in hard copy, digital, electronic, or other format.

#### Requested Documents

With this FOIA request, we are asking Region 10 to provide copies of the documents specifically described in the following enumerated paragraphs:

✿ **CORPORATE HQ**  
COGENCY GLOBAL INC.  
10 E 40<sup>TH</sup> ST, 10<sup>TH</sup> FL  
NY, NY 10016  
D: +1.212.947.7200  
P: 800.221.0102  
F: 800.944.6607

✿ **EUROPEAN HQ**  
COGENCY GLOBAL (UK) LIMITED  
REGISTERED IN ENGLAND & WALES,  
REGISTRY #8010712  
6 BEVIS MARKS, 1<sup>ST</sup> FL  
LONDON EC3A 7BA  
+44 (0)20.3786.1090

✿ **ASIA PACIFIC HQ**  
COGENCY GLOBAL (HK) LIMITED  
A HONG KONG LIMITED COMPANY  
INFINITUS PLAZA, 12<sup>TH</sup> FL  
199 DES VOEUX RD CENTRAL  
HONG KONG  
P: +852.3975.1803  
F: +852.3796.3000

- (1) Any application (or applications) submitted by SITC to the EPA requesting TAS or eligibility for any program, activity or purpose authorized by EPA regulations at 40 CFR Part 49. The documents requested in this paragraph include any amended application or applications.
- (2) Any maps, statements of SITC's tribal legal counsel, or other writings or materials submitted by SITC to the EPA as part of, or together with, any application for TAS described above in paragraph (1) as exhibits, appendices, attachments, or enclosures. This would include any "cover letter" or email, transmittal memorandum, or similar document used to transmit the application from SITC to the EPA.
- (3) Any documents shared or exchanged by or between SITC and EPA prior to and in anticipation of SITC submitting an application for TAS. Specifically, we are requesting "pre-application" documents such as early drafts or components of an application for TAS and any related correspondence which may have been shared by SITC with EPA in anticipation of SITC submitting a formal application for TAS, as well as any comments or correspondence from EPA to SITC referring to or commenting on any such drafts, components, or correspondence from SITC.<sup>1</sup>
- (4) Any documents sent by the EPA to SITC requesting SITC to supplement, clarify, explain, or modify an application for TAS, and any documents from SITC responding to any such requests by EPA.
- (5) Any documents, correspondence, or memoranda of any kind from EPA to SITC notifying SITC that an application submitted by SITC for TAS had been approved or denied, in whole or in part, as well as any document explaining the basis of, or imposing any limitations or conditions on, any such approval or denial.

If any of the documents requested above, or any portion thereof, are determined to be exempt from release pursuant 5 U.S.C. § 552(b) and 40 C.F.R. § 2.105, please release any documents or portions thereof which are not exempted. If any part of this request is

<sup>1</sup> The documents requested in paragraph (3) are the kinds of described in "Step 1" of Attachment F to the Memorandum of the Deputy Administrator dated January 23, 2008, to Assistant and Regional Administrators ([https://www.epa.gov/sites/production/files/2015-10/documents/strategy-for-reviewing-applications-for-tas\\_0.pdf](https://www.epa.gov/sites/production/files/2015-10/documents/strategy-for-reviewing-applications-for-tas_0.pdf)): "Tribes are encouraged to work with the EPA in developing their TAS eligibility applications to administer CAA programs. *Drafts or components of the application may be shared with the EPA before being formally submitted to the Agency.*" See Attachment F at page 27 of the Deputy Administrator's January 2008 Memorandum (emphasis added). We are requesting copies of any such drafts, components, or other writings that might have been shared or exchanged by and/or between SITC and EPA prior to the date on which SITC formally submitted its application for TAS under the CAA to the

denied, please describe the basis for the exemption and identify the documents or portions of documents determined to be exempt.

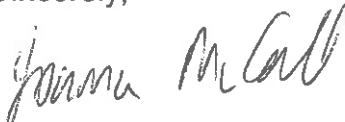
We respectfully request that Region 10 respond to this request within 20 business days of the date of this letter pursuant to 40 C.F.R. § 2.104. We also request that the documents responsive to this request be sent in electronic format but will accept hard copies if Region 10 informs us that doing so would be more expeditious.

If you produce hard copies of requested documents in response to this request, they should be mailed the following address:

COGENCY GLOBAL INC.  
1025 Vermont Ave NW, Suite 1130  
Washington, DC 20005

Thank you, and please do not hesitate to contact us with any questions you may have regarding this request.

Sincerely,



Joanna McCall, Assistant Secretary  
On behalf of:  
COGENCY GLOBAL INC.  
agency@cogencyglobal.com  
(800)494-5225